

Department of Energy

§ 905.16

(2) Western will work with a customer that loses small customer status to develop an appropriate schedule for submitting an IRP or other report required under this subpart.

§ 905.16 What are the requirements for the minimum investment report alternative?

(a) *Request to submit the minimum investment report.* Customers may submit a request to prepare a minimum investment report instead of an IRP. Minimum investment reports may be submitted by MBAs on behalf of the MBA or its members, and by IRP cooperatives on behalf of its participants. Requests to submit minimum investment reports must include data on:

(1) The source of the minimum investment requirement (number, title, date, and jurisdiction of law);

(2) The initial, annual, and other reporting requirement(s) of the mandate, if any; and

(3) The mandated minimum level of investment or public benefits charge for DSM and/or renewable energy.

(b) *Minimum investment requirement.* The minimum investment must be either:

(1) A mandatory set percentage of customer gross revenues or other specific minimum investment in DSM and/or renewable energy mandated by a State, Tribal, or Federal Government with jurisdictional authority; or

(2) A required public benefits charge, including charges to be collected for and spent on DSM; renewable energy; efficiency and alternative energy-related research and development; low-income energy assistance; and any other applicable public benefits category, mandated by a State, Tribal, or Federal Government with jurisdictional authority. Participation in a public benefits program requires either a mandatory set percentage of customer gross revenues or other specific charges to be applied toward the programs as determined by the applicable State, Tribal, or Federal authority. The revenues from the public benefits charge may be expended directly by the customer, or by another entity on behalf of the customer as determined by the applicable State, Tribal, or Federal authority.

(c) *Multi-state entities.* For those customers with service territories lying in more than one State or Tribal jurisdiction, and where at least one of the States or Tribal jurisdictions has a mandated minimum investment requirement, to meet this alternative customers must use the highest requirement from the State or Tribe within the customer's service territory and additionally apply it to all members in those States or Tribal jurisdictions in which there is no requirement. Alternatively, if each State or Tribe has a requirement, customers may satisfy Western's requirement by reporting on compliance with each applicable minimum investment requirement. Western will work with multi-state entities to ensure the most effective, and least burdensome, compliance mechanism.

(d) *Western's response to minimum investment report requests.* Western will respond to requests to accept minimum investment reports within 30 days of receiving the request. If Western disapproves a request to allow use of the minimum investment report, the customer must maintain its currently applicable IRP or small customer plan, or submit its initial IRP no later than 1 year after the date of the disapproval letter. Alternatively, the customer may submit a request for small customer plan or EE/RE report status, as appropriate.

(e) *Minimum investment report contents.* Reports documenting compliance with a minimum level of investment in DSM and/or renewable energy must include:

(1) Customer name, address, phone number, email and Website if applicable, and contact person;

(2) Authority or requirement to undertake a minimum investment, including the source of the minimum investment requirement (number, title, date, and jurisdiction of law or regulation); and

(3) A description of the minimum investment, including:

(i) Minimum percentage or other minimum requirement for DSM and/or renewable energy, including any charges to be collected for and spent on DSM, renewable energy, efficiency or alternative energy-related research

and development, low-income energy assistance, and any other applicable public benefits categories;

(ii) Actual or estimated energy and/or capacity savings resulting from minimum investments in DSM, if known;

(iii) Actual or estimated energy and/or capacity resulting from minimum investments in renewable energy, if known; and

(iv) A description of the DSM and/or renewable energy activities to be undertaken over the next 2 years as a result of the requirement for minimum investment, if known.

(f) *Minimum investment report approval.* Western will approve the minimum investment report when it meets the requirements in paragraph (e) of this section.

(g) *When to submit the minimum investment report.* The customer must submit the first minimum investment report to the appropriate Western Regional Manager within 1 year after Western approves the request to accept the minimum investment report. Customers choosing this option must maintain IRP or small customer plan compliance with Western's IRP regulations in effect before May 1, 2000, including submitting annual progress reports or update letters, until submitting the first minimum investment report, to ensure there is no gap in complying with section 114 of EPAAct. Customers must submit, in writing, a minimum investment report every 5 years.

(h) *Maintaining minimum investment reports.* (1) Every year on the anniversary of Western's approval of the first minimum investment report, customers choosing this option must submit a letter to Western verifying that they remain in compliance with the minimum investment requirement. The letter must also contain summary information identifying annual energy and capacity savings associated with minimum investments in DSM, if known, and energy and capacity associated with minimum investments in renewable energy, if known. The letter must also include a revised description of customer DSM and/or renewable energy activities if the description from the minimum investment report has changed or expired.

(2) Western will use the letter for overall program evaluation and to ensure customers remain in compliance. Customers may submit letters outside of the anniversary date if previously agreed to by Western, and if the letter contains all required data for the previous full year. Instead of a separate letter, a customer choosing this option may submit the State, Tribal, or Federal required annual report documenting the minimum investment and associated DSM and/or renewable energy savings and/or use, if known.

(i) *Loss of eligibility to submit the minimum investment report.* (1) A customer ceases to be eligible to submit a minimum investment report if:

(i) A State, Tribal, or Federal mandate no longer applies to the customer, or

(ii) The customer does not comply with the minimum level of investment in applicable State, Tribal, or Federal law.

(2) Western will work with a customer no longer eligible to submit a minimum investment report to develop an appropriate schedule to submit an IRP or other plan or report required under this subpart.

§ 905.17 What are the requirements for the energy efficiency and/or renewable energy report (EE/RE report) alternative?

(a) *Requests to submit an EE/RE report.* End-use customers may submit a request to prepare an EE/RE report instead of an IRP. Requests to submit EE/RE reports must include data on:

(1) The source of the EE/RE reporting requirement (number, title, date, and jurisdiction of law or regulation);

(2) The initial, annual, and other reporting requirement(s) of the report; and

(3) A summary outline of the EE/RE report's required data or components, including any requirements for documenting customer energy efficiency and renewable energy activities.

(b) *EE/RE report requirement.* The EE/RE report is based on a mandate by a State, Tribal, or Federal Government to implement energy efficiency and/or renewable energy activities within a specified timeframe, for which there is